

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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DEVON GREEN,

Plaintiff,

v.

JEFFERY MANLOVE,

Defendant.

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ORDER

Case No. 19-cv-797-wmc

On September 25, 2019, this court entered an order directing plaintiff Devon Green to submit by October 17, 2019 an initial partial payment of the filing fee in the amount of \$10.60. Now plaintiff has filed a motion to use release account funds to pay the entire fee for filing this case. Dkt. #6. I will grant in part and deny in part plaintiff's motion.

Pursuant to 28 U.S.C. § 1915(b)(1), prison officials are required to use a prisoner's release account to satisfy an initial partial payment if no other funds are available. *Carter v. Bennett*, 399 F. Supp. 2d 936, 936-37 (W.D. Wis. 2005). Therefore, if sufficient funds do not exist in plaintiff's regular account to pay the \$10.60 plaintiff has been assessed as an initial partial payment, he can use his release account to pay the initial partial payment balance.

However, with the exception of initial partial payment assessed to an inmate, this court does not have the authority to tell state officials whether, and to what extent, a prisoner should be able to withdraw money from a release account. Therefore, I will deny plaintiff's request to use his release account funds to pay the full \$350.00 fee for filing this case.

## ORDER

IT IS ORDERED that,

1. Plaintiff's motion to use his release account funds to pay the full \$350.00 filing fee is DENIED. Plaintiff's motion to use his release account funds to pay the \$10.60 assessed as an initial partial payment is GRANTED.
2. If, by October 17, 2019, plaintiff fails to make the initial partial payment or show cause for failure to do so, plaintiff will be held to have withdrawn this action voluntarily and the case will be closed without prejudice to plaintiff filing this case at a later date.
3. No further action will be taken in this case until the clerk's office receives plaintiff's initial partial filing fee as directed above and the court has screened the complaint as required by the Prisoner Litigation Reform Act, 28 U.S.C. § 1915A. Once the screening process is complete, a separate order will issue.

Entered this 1<sup>st</sup> day of October, 2019.

BY THE COURT:

/s/  
PETER OPPENEER  
Magistrate Judge